

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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JAMES O. MURRAY

Plaintiff,

-v.-

Civil Action No.  
9:11-cv-225 (GLS/ATB)

BRIAN FISCHER, *et al.*

Defendants.

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APPEARANCES:

OF COUNSEL:

**FOR THE PLAINTIFF:**

JAMES O. MURRAY  
95-A-4417  
*Pro Se*  
Upstate Correctional Facility  
P.O. Box 2001  
Malone, New York 12953

**FOR THE DEFENDANTS:**

HON. ERIC T. SCHNEIDERMAN  
Attorney General of the  
State of New York  
The Capitol  
Albany, New York 12224

GREGORY J. RODRIGUEZ, ESQ.  
Assistant Attorney General

GARY L. SHARPE,  
CHIEF JUDGE

## **ORDER**

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge Andrew T. Baxter, duly filed December 24, 2014. Following fourteen days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED that the Report-Recommendation of Magistrate Judge Andrew T. Baxter filed December 24, 2014 (Dkt. No. 106) is ACCEPTED in its entirety for the reasons stated therein; and it is further

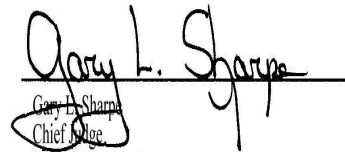
ORDERED that plaintiff's motion to dismiss certain of his remaining claims without prejudice (Dkt. No. 102) is **DENIED**; and it is further

ORDERED that defendants' motion for summary judgment (Dkt. No. 87) is **DENIED IN PART**, as to plaintiff's Eighth Amendment claims relating to the alleged assaults on April 16, 2009 and June 29, 2009, but otherwise is GRANTED on the grounds stated herein, and that plaintiff's other remaining claims in the amended complaint are **DISMISSED**; and it is further

ORDERED that the Clerk provide a copy of this Order to the parties in accordance to the local rules.

IT IS SO ORDERED.

Dated: February 3, 2015  
Albany, New York

  
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Gary L. Sharpe  
Chief Judge  
U.S. District Court